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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

14 UNITED STATES OF AMERICA,) NO. CV 09-2398 RGK (RZx)
15)
Plaintiff,) (Proposed)
16) **ORDER: FINAL DISTRIBUTION PLAN**
v.) **FOR SEIZED ASSETS AND**
17) **PERMITTING USE OF CERTAIN**
\$6,874,561.25 IN FUNDS FROM SIX) **SEIZED FUNDS FOR MAILING AND**
18 WELLS FARGO BANK ACCOUNTS, et) **RELATED EXPENSES AND**
al.,) **PUBLICATION**
19)
Defendants.) DATE: August 8, 2011
20) TIME: 9:00 a.m.
COURTROOM 850

21 The Court, having reviewed the government's Motion for an
22 Order Approving Final Distribution of a Portion of the Defendant
23 Seized Assets on a Pro-rata Basis and its supporting documents
24 ("Final Distribution Motion") and having reviewed any opposing
25 papers or replies thereto that may have been filed, hereby ORDERS
26 as follows:

27 1. The government has demonstrated to the Court's
28

1 satisfaction that it is in the interests of justice for this
2 Court, in the exercise of this Court's *in rem* jurisdiction over
3 the defendant assets, to approve the release of the remaining
4 liquidated seized assets in this case to the Best Diamond Funding
5 investors whose losses are final and are greater than \$0 as
6 determined by the Special Master, and to a group of ten Best
7 Diamond Lending investors with losses greater than \$0 based on
8 information provided by the United States Postal Inspection
9 Service ("USPIS").

10 2. In the related matter entitled United States v.
11 \$6,601.00 in U.S. Currency, et al., CV 10-06831-RGK (AGRx), this
12 Court has separately ordered that the funds in that case be
13 combined with the Final Distribution ordered herein.

14 3. The United States Marshals Service ("USMS") and United
15 States Attorney's Office ("USAO") shall cause to be paid to each
16 person or entity whose contract numbers are listed on the
17 attached Exhibit the amounts listed under the column "*Final*
18 *Distribution Amount*" from the remaining defendant assets in this
19 case (except the amounts held back pursuant to ¶ 7 below and the
20 defendant Smith & Wesson Revolver, .357 caliber, model 6866PLUS,
21 serial number DCF7556), and from the assets ordered released from
22 CV 10-06831-RGK by the separate Order referred to in paragraph 2.
23 The required payments consist of the following:

24 a. A payment of 36.93% to the following groups of
25 investors with finalized losses greater than \$0, as determined by
26 the Special Master and described in the government's motion for
27 this Order: (i) investors who accepted Option A after January 21,
28 2011, and are now finalized; (ii) investors who selected Option B

1 whose losses were finalized after January 21, 2011; (iii)
2 Non-responders whose court claims are barred, based on proof of
3 delivery to them of notice of this action; and (iv)
4 Non-responders who submitted questionnaires concerning their
5 losses, whose status is unknown;

6 b. Payment of 36.93% of loss as determined by USPIS
7 and the Special Master to ten investors in a related scheme, Best
8 Diamond Lending Group, as described in the government's motion;
9 and

10 c. Payment to the investors who were sent the Interim
11 Distribution this Court previously ordered ("First Round
12 Investors"), sufficient to bring the total payment to each First
13 Round Investor up to 36.93% of their Finalized Loss Amount as
14 determined by the Special Master.

15 4. The government shall have complete discretion to choose
16 the source of each Final Distribution payment from any or all
17 available assets.

18 5. The government has separately filed under seal, on the
19 same day its Final Distribution Motion was filed, a document
20 stating the full name, address, and other identifying information
21 for all of the investors listed on the Exhibit attached hereto
22 (the "Sealed Final Distribution List"). Counsel for the
23 government is hereby authorized to provide copies of the Sealed
24 Final Distribution List to USMS and its contractor(s), to the
25 Special Master and his staff, and to the United States Probation
26 Office (in connection with criminal restitution owed by Milton
27 Retana).

28 6. The payments described in paragraph 3 above may be

1 executed by a qualified third party contractor to be chosen by
2 USMS for the purpose of issuing and mailing checks. The
3 contractor shall pay the Final Distribution payments by a paper
4 check payable to the investor to whom the contract number on the
5 attached Exhibit corresponds. The checks shall be mailed to the
6 addresses listed on the Sealed Final Distribution List.

7 *Provided*, should the Special Master appointed in this action or
8 counsel for the government learn that the address of a particular
9 investor has changed, the Final Distribution payment check shall
10 be mailed to the changed address as directed by counsel for the
11 government. The Final Distribution payments shall be made as
12 soon as practicable in light of the logistics involved in
13 ordering, approving, and issuing the required number of checks.

14 7. The USMS shall hold back the following amounts from the
15 seized assets in this case from distribution:

16 a. The USMS may pay, as directed by the USAO, up to
17 \$27,500.00 from the defendant assets to the contractor for the
18 purpose of reasonable costs and fees associated with paying and
19 mailing the Interim and Final Distributions, including certified
20 mail tracking, as required by this Order. It is the Court's
21 understanding that \$13,636 of this amount has already been
22 incurred pursuant to the Court's Interim Distribution Order, but
23 not yet paid to the contractor.

24 b. The USMS shall hold back \$32,226.37 for fees and
25 expenses of the Special Master pending Court approval at the time
26 the motion for this Order was filed, and projected fees and
27 expenses for the period beginning April 30, 2011 forward of
28 \$68,038.44, for a total of \$100,264.81. Notwithstanding any

1 prior Order entered in this matter, going forward the Special
2 Master may wait to apply to the Court for reimbursement for his
3 fees and expenses until such time as he seeks to be discharged.

4 c. The USMS shall hold back \$500 for the government's
5 publication expenses in this matter.

6 8. USMS shall cause to be paid via the contractor to the
7 investors the interest actually earned since the time of seizure
8 on the assets released pursuant to this Order. The USMS may pay
9 the interest separately from the Final Distribution payment. If
10 the defendant assets being used to pay the Final Distribution
11 payments have earned interest at different rates, the USMS has
12 the discretion to aggregate the total amount of interest earned
13 and divide it among the investors according to the amounts of
14 their Final Distribution payments.

15 9. The USAO and USMS shall require the contractor to track
16 the success and failure of the Final Distribution payments. If
17 any checks paid pursuant to this Order are returned by the post
18 office, the contractor shall be directed to attempt to locate the
19 investor's correct address and pay and mail the funds again to
20 the designated investor upon direction of counsel for the
21 government.

22 10. The defendant assets comprising each Final Distribution
23 payment are provisionally dismissed from this case upon entry of
24 this Order, pursuant to Fed. R. Civ. P. 41(a). *Provided*, if
25 government counsel certifies to the Court that the government or
26 its contractor has been unable to locate and pay particular
27 investors listed on the attached Exhibit, the court may restore
28 the amounts of their corresponding Final Distribution payments to

1 the defendant assets in this case so that those funds may be part
2 of a future distribution or forfeiture.

3 **IT IS SO ORDERED.**

4 DATED: _____

The Honorable R. Gary Klausner
UNITED STATES DISTRICT JUDGE

6 PRESENTED BY:

7 ANDRÉ BIROTTE JR.
8 United States Attorney

9 _____/s/_____
10 MONICA E. TAIT
Assistant United States Attorney